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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CAROL YOUNG)	Civil No. 1CCV-19-000216
)	
Plaintiff,)	
)	
vs.)	FIRST AMENDED COMPLAINT;
)	SUMMONS; DEMAND FOR JURY
)	TRIAL
HAWAII STATE DEPARTMENT OF)	
EDUCATION; CHRISTINA)	
KISHIMOTO, in her Capacity as the)	
Superintendent of the HAWAII)	
STATE DEPARTMENT OF)	
EDUCATION; CHRISTINA SHIOI,)	
Individually; TAMMY KELLER,)	
Individually; SEAN TAJIMA,)	
Individually; DOE DEFENDANTS 1 -)	
20; DOE GOVERNMENTAL)	
ENTITIES 1-20,)	
)	
Defendants.)	
)	

FIRST AMENDED COMPLAINT

Comes now Plaintiff, CAROL YOUNG, by and through her attorney, SHOWA LAW OFFICE, LLLC, and hereby files this First Amended Complaint, and alleges and avers the following causes of action against Defendants HAWAII STATE DEPARTMENT OF EDUCATION; CHRISTINA KISHIMOTO, in her Capacity as Superintendent of the HAWAII STATE DEPARTMENT OF EDUCATION; CHRISTINA SHIOI; TAMMY KELLER; SEAN

TAJIMA; DOE DEFENDANTS 1 -20; and DOE GOVERNMENTAL ENTITIES 1-20 (hereinafter collectively “Defendants”).

THE PARTIES

1. Plaintiff CAROL YOUNG (“Plaintiff”) is and was at all times relevant a resident of the City and County of Honolulu and employed by the State of Hawaii Department of Education as a project director/resource teacher.

2. Defendant State of Hawaii Department of Education (“HIDOE”) is and was at all times relevant a governmental entity belonging to the State of Hawaii.

3. Defendant Christina Kishimoto (“Defendant Kishimoto”) is and was at all times relevant a resident of the City and County of Honolulu and the Superintendent of HIDOE.

4. Defendant Christina Shioi (“Defendant Shioi”) is and was at all times relevant a resident of the City and County of Honolulu and employed as a Grant Administrator and Academic Officer by HIDOE.

5. Defendant Tammy Keller (“Defendant Keller”) is and was at all times relevant a resident of the City and County of Honolulu and employed as a Complex Area Business Manager by HIDOE.

6. Defendant Sean Tajima (“Defendant Tajima”) is and was at all times relevant a resident of the City and County of Honolulu and employed as a Complex Area Superintendent by HIDOE.

7. DOE DEFENDANTS 1 – 20 and DOE GOVERNMENTAL ENTITIES 1 - 20 (collectively referred to herein as “DOE DEFENDANTS” or “other presently unidentified Defendants) are sued herein under fictitious

names for the reason that their true names and identities are presently unknown to Plaintiff except that they are connected in some manner with Defendants or were the agents, principals, partners, officers, directors, members, servants, employees, employers, representatives, co-venturers, associates, consultants, vendors, suppliers, manufacturers, subcontractors, contractors, sureties, insurers, owners, lessees, sublessees, lessors, guarantors, assignees, assignors, licensees or licensors of Defendants or were in some manner presently unknown to Plaintiff, engaged in the activities alleged herein, or were in some manner responsible for the injuries and damages to Plaintiff, or conducted some activity or activities in a negligent or wrongful manner which was a proximate cause of the injuries and damages to Plaintiff, and Plaintiff prays for leave to certify the true names, identities, capacities, activities, and responsibilities of DOE DEFENDANTS when the same are ascertained.

JURISDICTIONAL STATEMENT

8. This Court has personal jurisdiction over Defendants pursuant to Hawaii Revised Statutes § 634-35 as Defendants were either governmental entities belonging to the State of Hawaii, located within the City and County of Honolulu, or residents of the City and County of Honolulu.

9. This Court has subject matter jurisdiction pursuant to Hawaii Revised Statutes § 603-21.5(a)(3) and venue is proper pursuant to Hawaii Revised Statutes § 603-36(5).

10. This Court has further subject matter jurisdiction over HIDEOE and Defendant Kishimoto, in her capacity as Superintendent for HIDEOE, as

they satisfy the definition of “employer” under Hawaii Revised Statute § 378-61.

11. This Court has personal and subject matter jurisdiction over the individual Defendants named herein, pursuant to Hawaii Revised Statute, § HRS §378-61, which defines an “employer” to include “an agent of an employer or of the State or a political subdivision of the State”, as well as, under common law tort principles.

FACTUAL ALLEGATIONS

12. During all times relevant herein, Plaintiff was employed as a District Resource Teacher and Project Director in the Leeward District’s Campbell-Kapolei Complex Area of the State of Hawaii Department of Education.

13. In June 2017, Plaintiff discovered HIDOE had been unlawfully paying a certain HIDOE employee’s salary with federal funds after said employee had physically transferred from Makakilo Elementary School to Iroquois Point Elementary School notwithstanding the fact that Iroquois Point Elementary School was not entitled to receive 21st CCLC federal funds.

14. Part of the funds, constituting the extra salary, paid by HIDOE to said employee, came from federal funds received by HIDOE as part of a federal grant, making these payments a possible violation of federal laws and regulations.

15. Shortly after discovering that unlawful payments were being made by HIDOE to said employee, Plaintiff reported the unlawful activity to Heidi Armstrong, as well as to Defendants Shioi and Keller.

16. On November 15, 2017, Plaintiff sent an e-mail to Heid Armstrong to follow up on HIDOE's unlawful use of federal funds.

17. After reporting the on-going unlawful activity by HIDOE to Heidi Armstrong on November 15, 2017, HIDOE employees, including but not limited to, Defendants Shioi, Keller, and Tajima began subjecting Plaintiff to retaliation regarding her terms, conditions, location, and privileges of her employment.

18. On August 30, 2018, Plaintiff's counsel sent a letter to Defendant Kishimoto, with a copy to the State of Hawaii, Department of the Attorney General, informing her that Plaintiff was being subjected to unlawful retaliation, in violation of Hawaii Revised Statute, Section 378-62 and requesting that Plaintiff be kept at Makakilo Elementary instead of being returned to Ilima Intermediate School, where she would continue to experience being subjected to a retaliatory and hostile work environment.

19. On or about December 7, 2018, Plaintiff filed an official complaint regarding the misuse of federal funds with the Office of the Inspector General of United States Department of Education.

20. As of the filing of the present lawsuit, neither Defendant Kishimoto, HIDOE, nor the State of Hawaii Attorney General's office responded in any meaningful way to the August 30, 2018 letter nor took steps to protect Plaintiff from the retaliatory and/or retaliatory treatment she was subjected to by Defendants Shioi, Keller, and Tajima.

21. Defendants have subjected Plaintiff to retaliatory action in response to Plaintiff reporting the DOE's illegal use of federal grant funds, including but not limited to, the following

- (a) Plaintiff was required to attend meetings with Defendants Shioi, Keller, and Tajima, which other similarly situated employees were not required to attend;
- (b) Plaintiff was required to provide 30-days advance notice for purchase orders requests she was in charge of, while purchase order request for other similarly situated employees were processed in less than 30 days;
- (c) Certain purchase order requests, which Plaintiff was in charge, were subjected to inordinate delays;
- (d) Plaintiff was denied certain job duties, such as handling “day-to-day” fiscal matters, which required her to address all such matters to Defendant Keller and her staff;
- (e) When Plaintiff contacted Defendant Keller and her staff about how to handle certain fiscal matters, Plaintiff’s emails would either go unanswered or answered after significant delay, which impeded Plaintiff’s ability to do her work effectively and in a timely manner;
- (f) Defendant Tajima ordered an internal audit for grant program purchases Plaintiff was in charge of, while no internal audit was ordered for other purchases made by the two grant schools;
- (g) Defendant Shioi placed Plaintiff on a different evaluation plan (i.e., “Principal Directed Professional Development Plan” (“PDPDP”)) despite Plaintiff receiving a “Highly Effective” rating for the previous school year;
- (h) The requirements placed on Plaintiff, per the new PDPDP plan, were unrealistic and was targeted solely at Plaintiff and not at other similarly situated employees;

- (i) Defendant Tajima was specially appointed as Plaintiff's immediate supervisor and Plaintiff was required to attend a thirty-minute meeting with Defendant Tajima every time Plaintiff attended professional development seminars, which other similarly situated employees were not required to do;
- (j) Emails and voice mails sent by Plaintiff (and/or vendors she was in charge of) to Defendants Shioi and Keller frequently went unanswered, which impeded Plaintiff's ability to perform her job and cast her in negative light vis-à-vis vendors and other contractors Plaintiff was required to work with;
- (k) Defendant Keller intentionally did not enter hours into the casual personnel system on multiple occasions, which resulted in certain employees not getting paid on time, which reflected poorly on Plaintiff;
- (l) Defendant Keller began micro-managing project(s) Plaintiff was overseeing and required additional procedures to be followed in order for the project to receive necessary supplies, making it difficult for Plaintiff to perform her job duties as Project Director;
- (m) Defendant Keller scheduled meetings with site coordinators, principals, and other education officers via e-mail without including Plaintiff on such emails;
- (n) Defendant Shioi made decisions regarding purchase orders for project(s) Plaintiff was in charge of without consulting Plaintiff;
- (o) While Plaintiff was asked to resolve certain fiscal issues, Plaintiff was denied access to the Casual Personnel System and/or to the Budget in the HIDEOE's Financial Management System;

(p) Defendant Shioi relocated Plaintiff and her part-time teacher/assistant from Makakilo Elementary School to Ilima Intermediate School for no justifiable reason; and

(q) Plaintiff was denied reimbursement in the amount of approximately \$900 for supplies she paid with her own funds for a school event for which a purchase order had already been issued;

The retaliatory and retaliatory treatment Plaintiff was subjected to by Defendants continued until she was transferred to August Ahrens Elementary School in September of 2019.

COUNT I – VIOLATION OF HRS SECTION 378-62

22. Plaintiff repeats and realleges and by reference incorporates the allegations contained in the above paragraphs.

23. After reporting the above-described unlawful activity HIDOE was engaged in, HIDOE employees, including but not limited to, Defendants Shioi, Keller, and Tajima, began subjecting Plaintiff to retaliation regarding her terms, conditions, location, and privileges of her employment in violation of Hawaii's Whistle Blower Protection Act.

24. Defendants Shioi, Keller, and Tajima engaged in, aided, abetted, incited, and/or compelled unlawful retaliation against Plaintiff and/or attempted to engage in, aided, abetted, incited and/or compelled unlawful retaliation against Plaintiff.

25. As a result of the unlawful retaliation Plaintiff was subjected to by Defendants, Plaintiff has incurred damages in amounts to be proven at trial.

COUNT II – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26. Plaintiff repeats and realleges and by reference incorporates the allegations contained in the above paragraphs.

27. By retaliating against Plaintiff for reporting the above-described unlawful activity by HODOE, Defendants abused their authority and violated Hawaii's Whistle Blower Protection Act.

28. Through their extreme and outrageous conduct, Defendants, Shioi, Keller, and Tajima intentionally and recklessly caused severe emotional distress to Plaintiff, resulting in physical symptoms to Plaintiff.

29. As a result of Defendants Shioi, Keller, and Tajima's extreme and outrageous conduct, Plaintiff has incurred damages in amounts to be proven at trial.

COUNT III - PUNITIVE DAMAGES

30. Plaintiff repeats and realleges and by reference incorporates the allegations contained in the above paragraphs.

31. By engaging in the above-described actions, Defendants acted wantonly or oppressively, or with such malice, as implies a spirit of mischief or criminal indifference to civil obligations or with that entire want of care which would raise the presumption of a conscious indifference to consequences.

32. As a result of Defendants' aforementioned conduct, Plaintiff is entitled to punitive damages in amounts to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in its favor against all Defendants as follows:

A. For judgment in its favor on each and every count as alleged against the Defendants claimed herein, and presently unidentified Defendants, jointly and severally, in the type of relief or amount of damage set forth therein of for such amount as may be proven at trial.

B. For special damages against Defendants and presently unidentified Defendants, and each of them, jointly and severally, in an amount to be proven at trial.

C. Plaintiff be awarded further special, general, and/or consequential damages.

D. Punitive damages as may be proven at trial.

E. Plaintiff be awarded all costs of suit, including reasonable attorney's fees and costs, interest, all costs of investigation, and such other and further relief as the Court deems equitable in the premises.

DATED: Honolulu, Hawaii, November 20, 2019.

/s/ Andrew Daisuke Stewart

ANDREW DAISUKE STEWART
SHOWA LAW OFFICE, LLC

Attorney for Plaintiff
CAROL YOUNG